HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.20243 of 2002

12.9.2007

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Between

Sri Valluri Ashok Babu ..Petitioner

AND

The Commissioner of Police, Vijayawada and another ..Respondents

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:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.20243 of 2002

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

This writ petition is directed against the orders passed by the State Government through their Memo dated 11.7.2002 rejecting the Appeal preferred by the writ petitioner against the orders passed by the Commissioner of Police, Vijayawada City Police on 1.11.2001 canceling the arms licence granted earlier in favour of the writ petitioner. It is not in dispute that against the orders passed by the Commissioner of Police under Section 18 of the Arms Act, 1959, an Appeal has been provided to the State Government. It is therefore imperative for the State Government to deal with the contentions canvassed on behalf of the appellant and assign the reasons as to why the Appeal does not contain merit. Assigning reasons will eliminate arbitrary approach while arriving at the decision. The reasons also ensure transparency and fairness of consideration of the matter on merits. It would also ensure elimination of subjectivity and in its place, presence of objectivity.

The orders passed by the State Government, which read as under:

> "Sri V.Ashok Babu is informed that the appeal petition made against the cancellation of his Arms License No.18/90 CPC by the Commissioner of Police, Vijayawada is examined and the same is rejected due to your involvement in Criminal activities."

merely disclose that the Appeal is rejected due to the involvement of the appellant in “criminal activities”. It is asserted on behalf of the writ petitioner that he does not indulge in criminal activities at all and that he does not have any such history excepting a stray case which has been booked against him by his sibling who had disputes concerning the apportionment of certain properties and therefore, he implicated the writ petitioner in the insignificant and stray case. Unfortunately, the impugned orders passed by the State Government rejecting the Appeal of the petitioner cannot be construed as in any manner reflecting serious application of mind to various contentions canvassed on behalf of the writ petitioner before it. While entertaining the Appeal as a rule of practice, remarks on the Appeal are solicited, but at the same time, if there is any incriminating material that has come to the notice of the State Government which is liable to be guided as the basis for rejection of the Appeal, the same has got to be put to the writ petitioner who is the appellant before it, so that he will have the opportunity of explaining a way material which is otherwise considered prejudicial to his interest. Since no such attempt has been made by the State Government, I consider it appropriate to set aside the orders passed by the State Government on 11.7.2002 and remit the matter back for fresh consideration. It is needless to observe that the State Government will communicate to the writ petitioner the material gathered by it and considered as incriminating and prejudicial to the interest of the writ petitioner and then hear and decide the Appeal on merits.

With this, the writ petition is allowed. No costs.

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NOOTY RAMA MOHANA RAO.J.

12.9.2007
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